**The Verdict on Juries**

More States Are Adopting Jury Reforms, Freeing Jurors to Take Notes and Ask Questions. But Some Judges Are Slow to Embrace the Changes. http://www.abajournal.com/?ACT=49&vars=YToyOntzOjg6ImVudHJ5X2lkIjtzOjQ6IjMxNTEiO3M6OToid2VibG9nX2lkIjtzOjE6IjQiO30=

The overhaul seeks to improve the jury system from several angles. First, there is an increased effort to get more people into jury pools and bring a representative cross-section of the community into the jury box. For example, as a result of all occupational exemptions from jury duty being abolished in New York state in the mid-1990s, an appellate judge served on a jury in a criminal case in 2001.

Many jurisdictions are going beyond voter registration and driver’s licenses to compile jury lists, even relying on welfare and unemployment rolls. Greater use of technology and automation is making that easier, and some jurisdictions have created specialty courts to enforce ju­­ry summonses.

Looming larger and perhaps thornier in the near future is juror pay. It now ranges from $6 a day in Texas to $50 a day in Connecticut, hardly enough for a juror to sustain a household during a trial that becomes a months long marathon.

Arizona recently enacted legislation imposing small sur­charges on civil court filings to create a trial fund to ease the financial burden on jurors, though now only for civil cases. The income-based formula isn’t triggered until the tenth day of trial, and most trials average just four days. One juror in a two-month trial last year received more than $7,000.

Changes call for, among other things:

• Permitting note-taking by jurors.

• Allowing questions in civil cases and, possibly, in criminal cases.

• Requiring unanimous verdicts.

• Showing greater care and concern for jurors, including protections for their privacy.

While note-taking already is permitted in New York, it is not widespread.

Probably the most controversial of the 19 jury principles is that “In civil cases, jurors should, ordi­nar­ily, be permitted to submit written questions for wit­nesses. In deciding whether to permit jurors to submit written questions in criminal cases, the court should take into consideration the historic reasons why courts in a number of jurisdictions have discouraged juror questions and the experience in those jurisdictions that have allowed it.

Another issue is juror note-taking. The reason the practice is not more widespread isn’t that judges discourage it, but that they don’t inform juries of the possibility and don’t provide pads and pens.

While the tide in recent decades has swept away the long-held notions that juries should have 12 members and reach unanimous verdicts, many have been trying to tug it back.

In another of its more controversial recommendations, the ABA jury principles call for 12-person, unanimous juries in most instances, but especially in felony criminal cases.

Much of the reason for the more frequent use of smaller juries over the years has been cost savings.

But the U.S. Supreme Court, in two cases in the early 1970s, supported the notion that a jury does not have to be made up of 12 citizens. Yet the court ruled in 1978 that a jury of five in a criminal case violated defendants’ Sixth and 14th Amendment rights.

One of the key arguments against a requirement for unanimous juries is that it would increase the number of hung juries and retrials. On the other side, proponents of unanimous juries note that non unanimous juries often shorten deliberations because they’ve reached a quorum and realize they don’t need to consider the voices, or votes, of one or two holdouts.

The U.S. Supreme Court, just a year after it found in Ballew that a jury may not number fewer

A metro columnist for the Washington Post recently wrote about his experience on a jury in the District of Columbia Superior Court. Among his complaints was how obvious it was to the jurors that the lawyers were using challenges to remove potential jurors by race and ethnicity.

The U.S. Supreme Court ruled in 1986 that when a prosecutor struck four blacks from serving on a jury in the trial of a black defendant, resulting in an all white jury, it violated the man’s Sixth Amendment right to a fair trial and his 14th Amendment right to equal protection under the law.

**Name:**

**Date:**

***12 Angry Men*: The Rules of the Court.**

**Make a list of the jury changes the article suggests and explain why each is fair or why it is unfair. Try to consider how it might lead to bias, or try to prevent bias.**

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| **COURTROOM RULES** | **FAIR BECAUSE** | **UNFAIR BECAUSE:** |
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By the end of the discussion, I realized that I think:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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